

## REMARKS

By the present amendment, claims 60, 61, 115 and 116 have been amended, claim 82 has been cancelled, and no new claims have been added. Accordingly, claims 55, 58, 60-81 and 83-131 are presently pending, of which claims 55, 115 and 116 are the independent claims. Rejoinder of claims 76-81, 83-114 and 117-131, which presently stand withdrawn from consideration, is respectfully requested pursuant to 37 C.F.R. § 1.141, as discussed in greater detail below.

Applicants wish to thank the Examiner for the courtesies extended during the telephone interview conducted on February 4, 2010, summarized on pages 12-13 herein.

### **Allowed Claims**

Applicants also wish to thank the Examiner for the allowance of claims 55, 58 and 60-75.

### **35 U.S.C. § 102(b): Claims 115 and 116**

The Examiner has rejected former claims 115 and 116 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,963,783 to Grossman.

On page 2 of the Office Action, the Examiner has stated the following reason for allowing independent claim 55 but not claims 115 and 116:

“The applicant further argues that the prior art of Grossman does not disclose or suggest the claim limitation of claim 55: said electrical insulation surrounds said first electrode and said conductor. The examiner respectfully agrees. The examiner withdraws the rejection under 35 U.S.C. § 102(b) of claim 55. However, claims 115 and 116 do not have such claim limitation; thus, the examiner maintains the

rejection of claims 115 and 116 under 35 U.S.C. § 102(b).” [emphasis added]

Thus, the Examiner has allowed independent claim 55 because it recites that “said electrical insulation surrounds said first electrode and said conductor”, but has rejected independent claims 115 and 116 because they were not interpreted as including this limitation.

Therefore, during the telephone interview conducted on February 4, 2010, the Applicants’ agent discussed the following proposed amendment to claims 115 and 116 to capture this limitation:

**115.** (Previously proposed faxed amendment) An apparatus for producing electromagnetic radiation, the apparatus comprising:

- a) electrically insulated means for generating a flow of liquid along an inside surface of an envelope, wherein said electrically insulated means for generating the flow of liquid comprises electrically conducting means for generating the flow of liquid and means for electrically insulating said electrically conducting means for generating;
- b) first and second means for generating an electrical arc therebetween within the envelope to produce the electromagnetic radiation; and
- c) means for conducting electricity to said means for generating, wherein said means for conducting comprises said electrically conducting means for generating the flow of liquid, and wherein said means for electrically insulating surrounds said first means for generating the electrical arc and said electrically conducting means for generating the flow of liquid.

**116.** (Proposed amendment) A method of producing electromagnetic radiation, the method comprising:

- a) generating a flow of liquid along an inside surface of an envelope, using an electrically insulated flow generator comprising an electrical conductor and electrical insulation surrounding said conductor; and
- b) generating an electrical arc between first and second electrodes to produce said electromagnetic radiation, wherein said first electrode and said conductor are surrounded by said electrical insulation and wherein generating the electrical arc comprises conducting electricity to the first electrode through the conductor of the electrically insulated flow generator.

During the February 4, 2010 telephone interview, the Examiner agreed that these proposed amendments would overcome the rejection of claims 115 and 116 under 35 U.S.C. § 102(b).

However, the Examiner suggested that the wording of the concluding portion of subparagraph (a) of claim 115 could be improved by either deleting the phrase “for generating” or by adding the words “the flow of liquid”. Therefore, by the present amendment, independent claim 115 has been amended to incorporate both the previously proposed amendment and the additional amendment suggested by the Examiner, by deleting the words “for generating” at the end of subparagraph (a).

For claim 116, the Examiner pointed out that “electrodes” in line 1 of subparagraph (c) was plural while “first electrode” was singular in line 2, but he felt that the claim was still reasonably clear. Accordingly, Applicants did not interpret the Examiner’s comments as an objection to this terminology, but rather, merely as an observation for further consideration. Applicants respectfully submit that the previously proposed amendment has a sufficient

antecedent basis: the recital in subparagraph (b) of claim 116 of "first and second electrodes" serves as a sufficient antecedent basis for the subsequent recital of "said first electrode" in the amended portion of claim 116, and also serves as an antecedent basis for the subsequent recital of "said electrodes" and "said first and second electrodes" in the various dependent claims. Applicants also respectfully note that similar "electrodes" terminology has been employed in claim 55, which has been allowed. Accordingly, by the present amendment, claim 116 has been amended to incorporate the previously proposed amendment, without further changes to the "electrode" terminology of claim 116.

Applicants therefore respectfully submit that the rejection of claims 115 and 116 has been overcome.

**Election / Restrictions: Request for Rejoinder of claims 76-81, 83-114 and 117-131**

Rejoinder of claims 76-81, 83-114 and 117-131, which are presently pending but withdrawn from consideration, is respectfully requested pursuant to 37 C.F.R. § 1.141.

In this regard, claims 76-81 and 83-114 are directly or indirectly dependent upon independent claim 55, and claims 117-119 also include the limitations of claim 55. Claims 120-131 are directly or indirectly dependent upon independent claim 116.

Applicants respectfully submit that independent claims 55 and 116 are both generic to all relevant species to which their dependent claims 58, 60-81, 83-114 and 117-131 pertain, and therefore, claims 55 and 116 are both linking claims as discussed in M.P.E.P. § 809.03.

As independent claims 55 and 116 have been shown to be allowable, applicants respectfully request that their dependent claims 76-81, 83-114 and 117-131 be rejoined in this application and allowed, pursuant to 37 C.F.R. § 1.141.

During the telephone interview conducted on February 4, 2010, the Examiner agreed to rejoin these non-elected claims, but requested that the Applicants carefully check the antecedent basis of the claims. Applicants have carefully reviewed the claims as requested, and as a result, claims 60 and 61 have been amended and claim 82 has been cancelled.

### **Conclusion**

In view of the above, Applicants respectfully submit that the present application is in condition for allowance, and respectfully request that a Notice of Allowance be issued.

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

Should there be any questions concerning this application, the Examiner is respectfully invited to contact the undersigned agent at the telephone number

appearing below. Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to deposit account No. 11-1410.

Respectfully submitted,

Knobbe, Martens, Olson & Bear

Dated: Feb. 25, 2010

By: Che Swyden Chereskin

Che Swyden Chereskin  
Registration No. 41,466  
Agent of Record  
Customer No. 20,995  
(949) 721-6385

8621350  
022510